

REFERENCE TITLE: motor vehicle brokers and dealers

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

## HB 2384

Introduced by  
Representatives Pierce, Paton: Allen J, Biggs, Brown, Gray C, Jones,  
Nelson, Pearce, Yarbrough, Senators Bee, Harper, Johnson

### AN ACT

AMENDING SECTIONS 28-2097, 28-4301 AND 28-4336, ARIZONA REVISED STATUTES; REPEALING SECTION 28-4415, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 10, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 11; TRANSFERRING AND RENUMBERING SECTIONS 28-4416 THROUGH 28-4420, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 28, CHAPTER 10, ARTICLE 11, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT, AS SECTIONS 28-4681 THROUGH 28-4685, RESPECTIVELY; RENUMBERING SECTIONS 28-4421 AND 28-4422, ARIZONA REVISED STATUTES, AS SECTIONS 28-4415 AND 28-4416, RESPECTIVELY; AMENDING SECTION 28-4415, ARIZONA REVISED STATUTES, AS RENUMBERED BY THIS ACT; AMENDING SECTIONS 28-4681 THROUGH 28-4685, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT; AMENDING TITLE 28, CHAPTER 10, ARTICLE 11, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT, BY ADDING SECTION 28-4686; RELATING TO MOTOR VEHICLE DEALERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-2097, Arizona Revised Statutes, is amended to  
3 read:

4 28-2097. Modular motor homes: definition

5 A. Notwithstanding any other provision of this title:

6 1. If a refurbished coach or body component is remounted to a new cab  
7 and chassis power unit of a modular motor home, the department shall title  
8 the modular motor home according to the make of the refurbished coach. The  
9 manufacturer's cab and chassis vehicle identification number determines the  
10 model year. The department shall conduct a level one inspection of the  
11 vehicle and shall brand the title refurbished.

12 2. If a modular motor home is separated by removal of the coach or  
13 body component from the cab and chassis power unit and a cargo box, container  
14 or structure, if any, other than a motor home coach, is fitted to the cab and  
15 chassis unit, it ceases to be a modular motor home. The department shall  
16 conduct a level one inspection and shall title the vehicle according to the  
17 body style determined by the inspection. The department shall use the make  
18 and model year of the cab and chassis for titling purposes and shall brand  
19 the title refurbished.

20 B. If a vehicle covered by this section is offered for sale, a person  
21 who sells the vehicle shall keep full and complete disclosure statements and  
22 present those statements to any person or entity that requests them at the  
23 time of a sale or purchase. For the purposes of this subsection, full and  
24 complete disclosure statements are documents that accurately reflect the  
25 history of the original manufacturer's cab and chassis, including vehicle  
26 identification numbers, dates of required inspections, odometer readings and  
27 other information prescribed by the director in rules.

28 C. For the purposes of this section, "modular motor home" means:

29 1. A type of motor home that is primarily designed as temporary living  
30 quarters, that satisfies the requirements prescribed in section 28-4301,  
31 paragraph ~~20~~ 21, subdivision (b) and that is intended from inception through  
32 final assembly to consist of an incomplete cab and chassis power unit  
33 component and a coach or body component that are designed and engineered to  
34 be joined or separated without sheet metal modifications to the cab and  
35 chassis power unit component.

36 2. A vehicle that if joined to form a single unit consists of both:

37 (a) A cab and chassis power unit component that is purchased or  
38 acquired new from an original manufacturer.

39 (b) A coach or body component that is either purchased or acquired new  
40 from an original manufacturer or that is refurbished.

41 Sec. 2. Section 28-4301, Arizona Revised Statutes, is amended to read:

42 28-4301. Definitions

43 In this chapter, unless the context otherwise requires:

44 1. "Area of responsibility" means the area surrounding an individual  
45 dealer that the factory designates as that dealer's individual primary

1 geographic territory for the purpose of marketing, promoting, selling and  
2 leasing new motor vehicles. In the absence of the factory designated area,  
3 the area of responsibility is that geographical area surrounding a dealer  
4 that lies closer to that dealer than to other dealers of the same  
5 line-make.

6 2. "Automotive recycler" means a person who is engaged in the business  
7 of buying or acquiring a motor vehicle solely for the purpose of dismantling,  
8 selling or otherwise disposing of the parts or accessories and who dismantles  
9 six or more vehicles in a calendar year.

10 3. "Branch license" means a license that is issued by the director to  
11 a licensed motor vehicle dealer and that permits the licensee to sell motor  
12 vehicles from an established place of business within the same county but  
13 other than the original or principal place of business for which the license  
14 was issued.

15 4. "Broker" means a person who for any fee, commission or other  
16 valuable consideration, ~~REGARDLESS OF THE FORM OR TIME OF PAYMENT~~, offers to  
17 provide, provides or represents that the person will provide a service of  
18 arranging ~~or assisting in effecting~~ the purchase ~~OR LEASE~~ of a motor vehicle  
19 and who is not:

20 (a) A new motor vehicle dealer or an employee or agent of a new motor  
21 vehicle dealer.

22 (b) A used motor vehicle dealer or an employee or agent of a used  
23 motor vehicle dealer.

24 (c) A manufacturer or employee or agent of a manufacturer.

25 (d) An auctioneer or engaged in the auto auction business.

26 (e) A wholesale motor vehicle dealer.

27 5. "Community" means the relevant market area. For the purposes of  
28 this paragraph, "relevant market area" means the incorporated city or town in  
29 which the franchise is located.

30 6. "Distributor" means a person who either:

31 (a) Sells or distributes new motor vehicles to new motor vehicle  
32 dealers in this state.

33 (b) Maintains distributor representatives in this state.

34 7. "Distributor branch" means a branch office maintained or availed of  
35 by a distributor for either:

36 (a) The sale of new motor vehicles to new motor vehicle dealers in  
37 this state.

38 (b) Directing or supervising its representatives in this state.

39 8. "Established place of business":

40 (a) Means a permanent enclosed building or structure that is owned  
41 either in fee or leased with sufficient space to display two or more motor  
42 vehicles of a kind and type that the dealer is licensed to sell and that is  
43 devoted principally to the use of a motor vehicle dealer in the conduct of  
44 the business of the dealer.

1 (b) In the case of a used motor vehicle dealer, trailer dealer or  
2 semitrailer dealer:

3 (i) Need not be a permanent building or structure or part of a  
4 permanent building or structure.

5 (ii) May be a vacant lot or part of a vacant lot.

6 (iii) Does not mean or include a residence, tent, temporary stand or  
7 temporary quarters or permanent quarters occupied pursuant to a temporary  
8 arrangement.

9 (c) In the case of an automotive recycler, means a permanent site or  
10 location at which the business of an automotive recycler is or will be  
11 conducted.

12 9. "Exhibitor" means a manufacturer of new motor homes that exhibits  
13 new motor homes at a special event.

14 10. "Factory branch" means a branch office maintained or availed of by  
15 a manufacturer for either:

16 (a) The sale of new motor vehicles to distributors or the sale of new  
17 motor vehicles to new motor vehicle dealers in this state.

18 (b) Directing or supervising its representatives in this state.

19 11. "Financial institution" means a bank, trust company, savings and  
20 loan association, credit union, consumer lender, international banking  
21 facility or holding company that is licensed, regulated or insured by the  
22 department of financial institutions, the federal deposit insurance  
23 corporation, the office of thrift supervision, the comptroller of the  
24 currency, the national credit union share insurance fund or the national  
25 credit union administration.

26 12. "Franchise" means a contract between two or more persons if all of  
27 the following conditions are included:

28 (a) A commercial relationship of definite duration or continuing  
29 indefinite duration is involved.

30 (b) The franchisee is granted the right to offer, sell and service in  
31 this state new motor vehicles manufactured or distributed by the franchisor.

32 (c) The franchisee, as a separate business, constitutes a component of  
33 the franchisor's distribution system.

34 (d) The operation of the franchisee's business is substantially  
35 associated with the franchisor's trademark, service mark, trade name,  
36 advertising or other commercial symbol designating the franchisor.

37 (e) The operation of the franchisee's business is substantially  
38 reliant on the franchisor for the continued supply of new motor vehicles,  
39 parts and accessories.

40 13. "Franchisee" means a person who both:

41 (a) Receives new motor vehicles from the franchisor under a franchise.

42 (b) Offers and sells to and services new motor vehicles for the  
43 general public.

44 14. "Franchisor" means a person who both:

45 (a) Manufactures or distributes new motor vehicles.

1 (b) May enter into a franchise.

2 15. "Importer" means a person who transports or arranges for the  
3 transportation of a foreign manufactured new motor vehicle into the United  
4 States for sale in this state.

5 16. "Lead" means any retail consumer who satisfies all of the  
6 following:

7 (a) Responds to a factory-directed program that obtains consumer  
8 contact information and that provides such information to one or more  
9 dealers.

10 (b) Expresses an interest to the factory in purchasing, leasing or  
11 acquiring any vehicle or product, service or financing available from the  
12 dealers of that factory.

13 (c) Does not qualify for any reasonable factory sponsored employee,  
14 retiree or vendor new vehicle purchase program or any other reasonable  
15 similar factory new vehicle purchase program.

16 17. "LEASE PRICE" OR "LEASING PRICE" MEANS THE AMOUNT AGREED ON AS THE  
17 BEGINNING VALUE OF THE LEASED VEHICLE, INCLUDING TAXES, INSURANCE, SERVICE  
18 AGREEMENTS, OUTSTANDING PRIOR CREDIT OR LEASE BALANCE AND ALL ITEMS AND  
19 SERVICES INCLUDED IN THE LEASE.

20 ~~17.~~ 18. "Line-make" means those motor vehicles that are offered for  
21 sale, lease or distribution under a common name, trademark, service mark or  
22 brand name of the manufacturer of those same motor vehicles.

23 ~~18.~~ 19. "Major component part" includes a motor vehicle or vehicle  
24 part that the manufacturer has assigned any factory, motor, serial or other  
25 identification number or mark.

26 ~~19.~~ 20. "Manufacturer" means any person who either:

27 (a) Manufactures or assembles new motor vehicles.

28 (b) Manufactures or installs on previously assembled truck chassis  
29 special bodies or equipment that when installed forms an integral part of the  
30 new motor vehicle and that constitutes a major manufacturing alteration,  
31 excluding the installation of a camper on a pickup truck.

32 ~~20.~~ 21. "Motor home" means a motor vehicle that is primarily designed  
33 as temporary living quarters and that:

34 (a) Is built onto as an integral part of, or is permanently attached  
35 to, a motor vehicle chassis.

36 (b) Contains at least four of the following independent life support  
37 systems if each is permanently installed and designed to be removed only for  
38 purposes of repair or replacement:

39 (i) A cooking facility with an ~~on-board~~ ONBOARD fuel source.

40 (ii) A gas or electric refrigerator.

41 (iii) A toilet with exterior evacuation.

42 (iv) A heating or air conditioning system with an ~~on-board~~ ONBOARD  
43 power or fuel source separate from the vehicle engine.

44 (v) A potable water supply system that includes at least a sink, a  
45 faucet and a water tank with an exterior service supply connection.

1 (vi) A 110-125 volt electric power supply.

2 ~~21.~~ 22. "Motor vehicle" means an automobile, motor bus, motorcycle,  
3 truck or truck tractor or any other self-propelled vehicle, trailer or  
4 semitrailer.

5 ~~22.~~ 23. "Motor vehicle dealer" means a new motor vehicle dealer, a  
6 used motor vehicle dealer, ~~a broker~~ or a wholesale motor vehicle auction  
7 dealer, excluding a person who comes into possession of a motor vehicle as an  
8 incident to the person's regular business and who sells, **LEASES**, auctions or  
9 exchanges the motor vehicle.

10 ~~23.~~ 24. "New house trailer dealer" means a person who buys, sells,  
11 exchanges or offers or attempts to negotiate a sale or exchange of an  
12 interest in, or who is engaged in the business of selling, new house trailers  
13 or used house trailers taken in trade on new house trailers. For the  
14 purposes of this paragraph, "house trailer" means a vehicle, other than a  
15 motor vehicle, that is built on a chassis designed for being drawn on the  
16 highways by a motor vehicle and that is designed for human habitation.

17 ~~24.~~ 25. "New motor vehicle" means a motor vehicle, other than a used  
18 motor vehicle, that **HAS NEVER BEEN TITLED OR REGISTERED IN THIS STATE OR IN**  
19 **ANY OTHER STATE, THE DISTRICT OF COLUMBIA, ANY TERRITORY OR POSSESSION OF THE**  
20 **UNITED STATES OR ANY FOREIGN STATE, PROVINCE OR COUNTRY AND THAT** is held  
21 either for:

22 (a) Sale **OR LEASE** by the franchisee who first acquired the vehicle  
23 from the manufacturer or distributor of the vehicle.

24 (b) Sale **OR LEASE** by another franchisee of the same line-make.

25 ~~25.~~ 26. "New motor vehicle dealer" means a person **WHO IS A FRANCHISEE**  
26 **AND** who buys, sells, exchanges or offers or attempts to negotiate a sale ~~or~~  
27 ~~exchange~~ of ~~an interest in~~, or who is engaged in the business of selling **OR**  
28 **LEASING**, new motor vehicles or used motor vehicles taken in trade on new  
29 motor vehicles or used vehicles purchased for resale.

30 ~~26.~~ 27. "Off-premises display and sales" means a promotion or sale of  
31 motor vehicles for a period of time as specified by the director that both:

32 (a) Is sponsored by a licensed motor vehicle dealer, the licensed  
33 motor vehicle dealer's agents or the manufacturer.

34 (b) Takes place at a location within the same county but not at the  
35 licensee's established place of business.

36 ~~27.~~ 28. "Off-premises exhibition" means the exhibition of a motor  
37 vehicle for a period of time as specified by the director at a location  
38 within the same county but not at the established place of business of a  
39 licensed motor vehicle dealer and at which a solicitation or sale does not  
40 occur.

41 ~~28.~~ 29. "Provisional automotive recycler's license" means a license  
42 that both:

43 (a) Is issued by the department only in conjunction with an  
44 application for an automotive recycler's license.

(b) Permits the applicant or applicants to conduct the business of an automotive recycler regulated by this chapter pending completion of the criminal records check pursuant to section 28-4361.

~~29.~~ 30. "Provisional dealer's license" means a license that both:

(a) Is issued by the department only in conjunction with an application for a dealer's license.

(b) Permits the applicant or applicants to conduct the business of a motor vehicle dealer regulated by this chapter pending completion of the criminal records check pursuant to section 28-4361.

~~30.~~ 31. "Retail consumer" means any person purchasing, leasing or acquiring or possibly purchasing, leasing or acquiring a vehicle or product, service or financing not for resale.

~~31.~~ 32. "Service" means any service that is sold, leased or provided to retail consumers and that directly relates to the ownership or leasing of a new or used motor vehicle, including extended service contracts or motor vehicle warranty and nonwarranty repairs or maintenance, including both parts and labor.

~~32.~~ 33. "Special event" means an exhibition of new motor homes by a motor vehicle dealer licensed to sell new motor homes or an exhibitor for a period of time specified by the director at a location in this state other than the licensee's or exhibitor's established place of business.

~~33.~~ 34. "Used motor vehicle" means a motor vehicle that has been sold, bargained, exchanged or given away or the title to the motor vehicle has been transferred from the person who first acquired the vehicle from the manufacturer, or importer, dealer or agent of the manufacturer or importer, and ~~that has been placed in bona fide consumer use. For the purposes of this paragraph, "bona fide consumer use" means actual operation by an owner who acquired a new motor vehicle both:~~

~~(a) For use in the owner's business or for pleasure or otherwise.~~

~~(b)~~ for which a certificate of title has been issued or that has been registered as provided by law.

~~34.~~ 35. "Used motor vehicle dealer" means a person, other than a new motor vehicle dealer, who buys, sells, auctions, exchanges or offers or attempts to negotiate a sale or exchange of an interest in, or who is engaged in the business of selling, four or more used motor vehicles in a continuous twelve month period. Used motor vehicle dealer does not include a wholesale motor vehicle auction dealer.

~~35.~~ 36. "Wholesale motor vehicle auction dealer" means a person who both:

(a) Is in the business of providing auction services solely in wholesale transactions to motor vehicle dealers licensed by this state or any other jurisdiction.

(b) Does not buy, sell or own the motor vehicles the auction dealer auctions in the ordinary course of business.

~~36-~~ 37. "Wholesale motor vehicle dealer" means a person who sells used motor vehicles only to licensed motor vehicle dealers.

Sec. 3. Section 28-4336, Arizona Revised Statutes, is amended to read:  
28-4336. Separate licenses and permits: one license limit

A. A branch licensee shall obtain a separate branch license for each place of business at which a licensee transacts business other than the original or principal place of business.

B. A motor vehicle dealer licensee shall obtain a separate permit for and display the separate permit at each location other than the licensee's established place of business at which the licensee conducts an off-premises exhibition, an off-premises display and sales or a special event.

C. An exhibitor shall obtain a separate permit for and display the separate permit at each location at which the exhibitor conducts a special event.

D. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A MOTOR VEHICLE DEALER OR BROKER SHALL NOT BE ISSUED, HAVE OUTSTANDING, DISPLAY OR BE IN POSSESSION OF MORE THAN ONE LICENSE ISSUED PURSUANT TO THIS CHAPTER AT ANY ONE TIME. THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO IS LICENSED AS AN AUTOMOTIVE RECYCLER PURSUANT TO THIS CHAPTER.

Sec. 4. Repeal

Section 28-4415, Arizona Revised Statutes, is repealed.

Sec. 5. Title 28, chapter 10, Arizona Revised Statutes, is amended by adding article 11, to read:

ARTICLE 11. MOTOR VEHICLE TRANSACTIONS INVOLVING BROKERS

Sec. 6. Transfer and renumber

A. Sections 28-4416 through 28-4420, Arizona Revised Statutes, are transferred and renumbered for placement in title 28, chapter 10, article 11, Arizona Revised Statutes, as added by this act, as sections 28-4681 through 28-4685, respectively.

B. Sections 28-4421 and 28-4422, Arizona Revised Statutes, are renumbered as sections 28-4415 and 28-4416, respectively.

Sec. 7. Section 28-4415, Arizona Revised Statutes, as renumbered by this act, is amended to read:

28-4415. Selling or leasing dealer's duties

A. For purposes of title, registration, warranties, rebates and incentives in a brokered sale OR LEASE of a new motor vehicle to a retail consumer, the selling OR LEASING new motor vehicle dealer ~~and not the broker~~ is responsible for:

1. Applying for title in the name of the ~~purchaser~~ RETAIL CONSUMER OR LESSOR and securing vehicle registration and the license plates for the ~~purchaser~~ RETAIL CONSUMER OR LESSOR.

2. Securing the manufacturer's warranty in the name of the ~~purchaser~~ RETAIL CONSUMER.

3. Making all applications for any manufacturer's rebates and incentives due the ~~purchaser~~ RETAIL CONSUMER.



1           4. DELIVERING A NEW MOTOR VEHICLE TO A RETAIL CONSUMER OR LESSEE.

2           B. If there is a manufacturer's recall, the retail consumer shall be  
3 notified directly by the manufacturer.

4           C. UNLESS A PERSON IS LICENSED AS A NEW MOTOR VEHICLE DEALER, A PERSON  
5 SHALL NOT ENGAGE IN ANY ACTIVITIES PRESCRIBED BY THIS SECTION.

6           Sec. 8. Section 28-4681, Arizona Revised Statutes, as transferred and  
7 renumbered by this act, is amended to read:

8           28-4681. Deposits

9           A broker shall only accept a purchase deposit that is made payable to a  
10 motor vehicle dealer. A broker shall not accept a purchase deposit relating  
11 to the sale OR LEASE of a motor vehicle unless ~~the motor vehicle is available~~  
12 ~~to the broker at the broker's licensed place of business or is available as~~  
13 ~~prescribed in section 28-4415 at the time either the broker or motor vehicle~~  
14 ~~dealer accepts the deposit~~ ONE OF THE FOLLOWING APPLIES:

15           1. THE MOTOR VEHICLE IS FOR SALE OR LEASE AND LOCATED AT THE MOTOR  
16 VEHICLE DEALER'S ESTABLISHED PLACE OF BUSINESS.

17           2. THE MOTOR VEHICLE DEALER DISCLOSES IN THE ADVERTISEMENT THE  
18 SPECIFIC STREET ADDRESS AND BUSINESS HOURS WHERE THE MOTOR VEHICLE MAY BE  
19 INSPECTED BY A RETAIL CONSUMER.

20           3. THE MOTOR VEHICLE IS AVAILABLE TO THE MOTOR VEHICLE DEALER DIRECTLY  
21 FROM THE MANUFACTURER OR DISTRIBUTOR OF THE MOTOR VEHICLE AT THE TIME OF THE  
22 ADVERTISEMENT OR OFFER.

23           Sec. 9. Section 28-4682, Arizona Revised Statutes, as transferred and  
24 renumbered by this act, is amended to read:

25           28-4682. Required disclosures on sales or lease contracts

26           A motor vehicle dealer shall disclose in a clear and conspicuous manner  
27 on any contract for the sale OR LEASE of a motor vehicle to a retail consumer  
28 each of the following:

29           1. Whether or not the transaction is subject to a fee OR OTHER  
30 COMPENSATION REGARDLESS OF THE FORM OR TIME OF PAYMENT received by a broker  
31 from the selling OR LEASING motor vehicle dealer.

32           2. The name of the broker, if applicable.

33           3. WHETHER OR NOT THE TRANSACTION IS SUBJECT TO A FEE OR OTHER  
34 COMPENSATION REGARDLESS OF THE FORM OR TIME OF PAYMENT TO A FINANCIAL  
35 INSTITUTION.

36           Sec. 10. Section 28-4683, Arizona Revised Statutes, as transferred and  
37 renumbered by this act, is amended to read:

38           28-4683. Warranties and rebates in broker transactions

39           A. A manufacturer or distributor shall not dishonor a warranty, rebate  
40 or other incentive offered to the public or a NEW motor vehicle dealer in  
41 connection with the sale OR LEASE of a new motor vehicle to a retail consumer  
42 based solely on the fact that a broker arranged or negotiated the sale OR  
43 LEASE.

44           B. This section does not prohibit the disallowance of the warranty,  
45 rebate or incentive if the retail consumer or motor vehicle dealer is

ineligible to receive the rebate or incentive pursuant to any other term or condition of a rebate or incentive program.

Sec. 11. Section 28-4684, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

28-4684. Required and prohibited activities

If providing a service of arranging ~~or assisting in effecting~~ the purchase OR LEASE of a motor vehicle by a retail consumer, a broker ~~or motor vehicle dealer~~ WHO IS licensed pursuant to this chapter:

1. Shall:

(a) Execute a written brokering agreement and provide a completed copy to both of the following:

(i) The retail consumer entering into the brokering agreement. The completed copy shall be provided before the retail consumer signs an agreement for the purchase OR LEASE of the motor vehicle described in the brokering agreement or before the broker or motor vehicle dealer accepts one hundred dollars or more from the retail consumer, whichever occurs first.

(ii) The selling OR LEASING motor vehicle dealer. The completed copy shall be provided before the selling OR LEASING motor vehicle dealer enters into a purchase OR LEASE agreement with the retail consumer.

(b) On demand of a retail consumer, refund any purchase money, including purchase deposits, at any time before the retail consumer signs a motor vehicle purchase OR LEASE agreement with a selling OR LEASING motor vehicle dealer of the motor vehicle described in the brokering agreement.

(c) On demand of a retail consumer, cancel a brokering agreement and refund any monies paid by a retail consumer, including a brokerage fee, under any of the following circumstances:

(i) If the final price of the brokered motor vehicle exceeds the purchase OR LEASE price listed in the brokering agreement.

(ii) If the motor vehicle delivered is not as described in the brokering agreement.

(iii) If the brokering agreement expires before the retail consumer is presented with a purchase OR LEASE agreement from a selling OR LEASING motor vehicle dealer that is arranged through the broker and that contains a purchase OR LEASE price at or below the price listed in the brokering agreement.

(d) Disclose to the retail consumer and selling OR LEASING motor vehicle dealer as soon as practicable whether the broker receives or does not receive a fee or other compensation, regardless of the form or time of payment, from the selling OR LEASING motor vehicle dealer and the dollar amount of any fee that the retail consumer is obligated to pay to the broker. This arrangement shall be confirmed in a brokering agreement.

(e) Maintain records pursuant to section 28-4403.

(f) Maintain for a minimum of three years a copy of the executed brokering agreement and other notices and documents related to each brokered transaction.

1 (g) Advise the retail consumer, before accepting any money, that a  
2 full refund will be given if the motor vehicle ordered through the broker is  
3 not obtained for the retail consumer or if the service contracted for is not  
4 provided.

5 2. Shall not:

6 (a) Accept a purchase deposit from any retail consumer that exceeds  
7 two and one-half per cent of the selling OR LEASING price of the motor  
8 vehicle described in the brokering agreement.

9 (b) Receive a fee OR OTHER COMPENSATION REGARDLESS OF THE FORM OR TIME  
10 OF PAYMENT from more than one source if providing services to a retail  
11 consumer as either a broker or motor vehicle dealer in the same transaction.

12 (c) COMPLETE THE SALE OR LEASE OR ASSIST IN THE TITLE, REGISTRATION OR  
13 DELIVERY OF A MOTOR VEHICLE TO A RETAIL CONSUMER.

14 Sec. 12. Section 28-4685, Arizona Revised Statutes, as transferred and  
15 renumbered by this act, is amended to read:

16 28-4685. Contents of brokering agreement

17 A brokering agreement shall contain the following terms, conditions,  
18 requirements and disclosures:

19 1. The name, address, license number and telephone number of the  
20 broker.

21 2. A complete description, including line-make, model, year and color  
22 of the motor vehicle and the desired options.

23 3. The following statement:

24 The following information shall be completed before the  
25 signing of this brokering agreement:

26 (a) The dollar purchase OR LEASE price of vehicle:

27 \_\_\_\_\_.

28 (b) The date this agreement will expire if a purchase OR  
29 LEASE agreement from a selling OR LEASING dealer is not  
30 presented for your signature: \_\_\_\_\_.

31 (c) The fee OR OTHER COMPENSATION REGARDLESS OF THE FORM  
32 OR TIME OF PAYMENT that you are obligated to pay, if any:

33 \_\_\_\_\_.

34 4. A notice that is printed in conspicuous type, that is placed  
35 immediately below the statement required by paragraph 3 and that states  
36 whether or not a fee OR OTHER COMPENSATION REGARDLESS OF THE FORM OR TIME OF  
37 PAYMENT is received from the selling dealer OR IS CHARGED TO THE RETAIL  
38 CONSUMER BY A FINANCIAL INSTITUTION.

39 5. The following notice on the face of the brokering agreement in  
40 conspicuous type, circumscribed by a line, that reads as follows:

41 Notice

42 This is an agreement to provide services. This is not an  
43 agreement for the purchase OR LEASE of a vehicle. Arizona law  
44 gives you the following rights and protection:

Once you have signed this agreement, you have the right to cancel it and receive a full refund of any monies paid, including any brokerage fee you may have paid, under any of the following circumstances:

(a) The final price of the vehicle exceeds the purchase OR LEASE price listed above.

(b) The vehicle is not as described above on delivery.

(c) This agreement expires before you are presented with a selling OR LEASING dealer's purchase OR LEASE agreement.

If you have paid a purchase deposit, you have the right to receive a refund of that deposit at any time before you sign a vehicle purchase OR LEASE agreement with a selling OR LEASING dealer. Purchase deposits are limited by law to no more than 2.5 per cent of the purchase OR LEASE price of a vehicle. If you are unable to resolve a dispute with your broker or auto buying service, please contact an investigator of the department of transportation.

6. The date the agreement is executed.

7. The signature of the broker and the retail consumer.

Sec. 13. Title 28, chapter 10, article 11, Arizona Revised Statutes, as added by this act, is amended by adding section 28-4686, to read:

28-4686. Advertising

A. A BROKER SHALL NOT ADVERTISE OR OFFER FOR SALE, LEASE OR EXCHANGE ANY SPECIFIC MOTOR VEHICLE.

B. A BROKER MAY ADVERTISE THE BROKER'S SERVICE OF ARRANGING THE PURCHASE OR LEASE OF A MOTOR VEHICLE FROM A MOTOR VEHICLE DEALER AND SPECIFY THE LINE-MAKES AND MODELS OF THE NEW VEHICLES.

C. A BROKER MAY NOT ADVERTISE THE PRICE OF OR PAYMENT TERMS FOR ANY MOTOR VEHICLE. A BROKER SHALL DISCLOSE THAT THE ADVERTISER IS A BROKER AND SHALL CLEARLY AND CONSPICUOUSLY STATE THE FOLLOWING:

ALL MOTOR VEHICLES ARRANGED FOR SALE OR LEASE ARE SUBJECT TO PRICE AND AVAILABILITY FROM THE SELLING OR LEASING MOTOR VEHICLE DEALER.